

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kathryn Duffy	Team: Team # 1	CCRB Case #: 200713629	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 08/20/2007 8:45 AM	Location of Incident: Canal Street platform subway #6 train	Precinct: 05	18 Mo. SOL 2/20/2009	EO SOL 2/20/2009	
Date/Time CV Reported Wed, 09/19/2007 2:40 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 09/19/2007 2:40 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Hariton Marachilian	13084	935245	TB M/TF
2. SGT Alfred Ricci	05201	916518	TB M/TF

Officer(s)	Allegation	Investigator Recommendation
A.POM Hariton Marachilian	Abuse: PO Hariton Marachilian stopped § 87(2)(b)	
B.SGT Alfred Ricci	Abuse: Sgt. Alfred Ricci stopped § 87(2)(b)	
C.POM Hariton Marachilian	Discourtesy: PO Hariton Marachilian spoke obscenely and/or rudely to § 87(2)(b)	
D.POM Hariton Marachilian	Abuse: PO Hariton Marachilian frisked § 87(2)(b)	
E.SGT Alfred Ricci	Abuse: Sgt. Alfred Ricci frisked § 87(2)(b)	
F.POM Hariton Marachilian	Abuse: PO Hariton Marachilian searched § 87(2)(b)	
G.SGT Alfred Ricci	Abuse: Sgt. Alfred Ricci searched § 87(2)(b)	
H.SGT Alfred Ricci	Abuse: Sgt. Alfred Ricci searched § 87(2)(b) s handbag.	
I.POM Hariton Marachilian	Abuse: PO Hariton Marachilian threatened to arrest § 87(2)(b) and § 87(2)(b)	
J.SGT Alfred Ricci	Abuse: Sgt. Alfred Ricci refused to provide his name and shield number to § 87(2)(b)	

Synopsis

On September 17, 2007, § 87(2)(b) a resident of § 87(2)(b), called the Transit Boro Manhattan Task Force and made the following complaint of police misconduct, which was called in to the CCRB complaint intake line by Sgt. Sandra Nixon on September 19, 2007. IAB forwarded a duplicate complaint, log number 07-35861, on September 21, 2007.

On August 20, 2007, § 87(2)(b) and his wife, § 87(2)(b) were visiting New York City on personal business. At 8:45 am, they were riding a south-bound #6 subway train from Grand Central to Canal Street, where they planned to go shopping. As they exited the train, they were stopped by PO Hariton Marachilian and Sgt. Alfred Ricci from the Manhattan Transit Bureau Task Force (**allegations A and B**). § 87(2)(b) alleged that at some point during the stop, PO Marachilian told him to “shut the fuck up” (**allegation C**). § 87(2)(b) was frisked and then searched by PO Marachilian (**allegations D and F**) while § 87(2)(b) was frisked and then searched by Sgt. Ricci (**allegation E and G**). § 87(2)(b) alleged that Sgt. Ricci also searched her handbag (**allegation H**). § 87(2)(b) alleged that sometime during the stop, frisk, and search, PO Marachilian threatened to arrest him by telling him, “If I really wanted to harass you I could arrest you and put you through the system right now” (**allegation I**). § 87(2)(b) and § 87(2)(b) were released from the Canal Street station without being arrested or issued any summonses. After his release, § 87(2)(b) asked PO Marachilian and Sgt. Ricci for their names and shield numbers. PO Marachilian wrote his name and shield number on a piece of paper, but Sgt. Ricci allegedly said, “If you have his information, you can get to me” (**allegation J**).

§ 87(2)(b) and § 87(2)(b) made telephone statements to the undersigned investigator on October 3, 2007. During the telephone interview, the undersigned investigator explained that § 87(2)(b) and § 87(2)(b) must sign verification statements in front of a notary and return them to the CCRB. The verification statements were mailed to § 87(2)(b) and § 87(2)(b)'s home address on October 3, 2007. The undersigned investigator called § 87(2)(b) and § 87(2)(b) on October 22, 2007, October 24, 2007, February 8, 2008, and February 15, 2008, to obtain the verification forms, leaving voicemails or speaking directly to § 87(2)(b) on each call. On February 8, 2008, § 87(2)(b) said that he did not think his complaint should be handled by a civilian board and disagreed with the manner in which his complaint was being addressed, but nevertheless agreed to mail his verification form. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

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§ 87(2)(g)

§ 87(2)(b) The undersigned investigator mailed contact letters to § 87(2)(b) on September 17, 2008 and September 24, 2008, and called § 87(2)(b) on September 25, 2008. § 87(2)(b) again noted that he did not agree with the philosophy behind the investigative process and would prefer that the officers involved be disciplined directly by their supervisor. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) The undersigned faxed new verification forms to § 87(2)(b)'s office. He stated that he would send his and his wife's verification forms back to the CCRB “if [he] had time.” The undersigned clarified to § 87(2)(b) that the forms must be received by October 10, 2008, or the investigation would be closed. § 87(2)(b) understood and agreed to this timeline. As of the date of this report, the forms have not been received, and § 87(2)(b) has not called or otherwise been in contact with the CCRB. § 87(2)(g)

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) a § 87(2)(b)-year-old black male § 87(2)(b) Georgia, made the following statement to the CCRB over the telephone on October 3, 2007. § 87(2)(g)

§ 87(2)(b) did not return either of two verification forms mailed to him despite repeated calls.

On August 20, 2007, § 87(2)(b) and § 87(2)(b) were visiting New York City for a shopping trip after attending a funeral in upstate New York. § 87(2)(b) was dressed in blue jeans and a windbreaker, and was wearing his wedding band, which is platinum with a diamond setting, and a Movado watch. At approximately 8:45 am, § 87(2)(b) and § 87(2)(b) were riding a downtown bound 6 subway train through the morning rush hour with the intention of shopping in the Canal Street area of Manhattan.

§ 87(2)(b) and his wife entered the 6 train at 42nd Street Grand Central Station, which was extremely crowded. § 87(2)(b) said that an individual identified by the investigation as PO Hariton Marachilian of the Transit Bureau Manhattan Task Force forced his way onto the train. § 87(2)(b) noticed him only because he pushed through the train doors as they closed. He thought that this was strange behavior and wondered why PO Marachilian was so determined to board the train. He was unaware that PO Marachilian was an officer. About half way through the trip, § 87(2)(b) found a seat on the train and walked about five feet away to take the seat, while § 87(2)(b) remained standing near the door of the train. He continued to stand in the same spot until the train reached Canal Street, and took no further notice of PO Marachilian.

When the train stopped at Canal Street, § 87(2)(b) and § 87(2)(b) exited into the station with a large crowd of individuals. § 87(2)(b) and § 87(2)(b) walked toward the high-wheel turnstile, with § 87(2)(b) behind his wife. As he walked through the turnstile, he felt somebody poking him around his lower back. He turned angrily, because he thought that he was being robbed, and saw PO Marachilian behind him. § 87(2)(b) said that he continued to push through the turnstile gate but simultaneously asked PO Marachilian, “What’s going on? What are you doing?” § 87(2)(b) said that PO Marachilian had not yet identified himself as an officer. He was unwilling to disclose what he said when he challenged PO Marachilian, and reacted defensively when asked about his response to the initial approach, but denied using profanity. PO Marachilian responded by telling § 87(2)(b) “We’ll explain later. Get your hands against the wall; I can’t tell you until I handcuff you.”

§ 87(2)(b) realized that PO Marachilian was an officer and complied with his request. He moved to the right side of the platform near a stairwell leading up to Canal Street and placed his hands against the wall. As he did this, PO Marachilian said, “You were standing too close to women on the train.” PO Marachilian placed a pair of handcuffs on § 87(2)(b) who denied standing inappropriately close to any women on the train, inasmuch as he could avoid doing so given that the car was close to its capacity. He said that PO Marachilian told him to “Shut the fuck up” at some point during their interaction before he was handcuffed, but was unable to articulate precisely when or in what context the profanity was used. § 87(2)(b) said that he was about ten feet away from his wife, who had also been stopped by an officer identified by the investigation as Sgt. Alfred Ricci from the Manhattan Transit Bureau Task Force and was detained against the gate separating the train platform from the rest of the station.

After § 87(2)(b) was handcuffed, PO Marachilian proceeded to pat down the outside of his jacket and jeans. PO Marachilian placed his hands inside each pocket of § 87(2)(b)’s clothing and pulled out everything inside, which included a cell phone charger in his jacket pocket, and multiple single credit and debit cards in his jeans pocket. § 87(2)(b) explained that he had placed his credit cards directly into his front jeans pocket rather than carry them inside of a wallet to avoid being pick-pocketed. As PO Marachilian searched § 87(2)(b) he told him, “I think you were pick-pocketing. Why do you have all of these single cards?” § 87(2)(b) explained his reason for carrying the cards outside of his wallet, and said that PO Marachilian returned the cards when he noticed that each had the same name and other identifying information. PO Marachilian commented on a Home Depot credit card in § 87(2)(b)’s possession which was in the name of § 87(2)(b) and § 87(2)(b) explained that the card belonged to his wife and indicated that she was across the platform. § 87(2)(b) said that PO Marachilian commented on his possessions during the search, saying, “Wow, that’s a nice watch,” or “That’s a nice ring” as he noticed each item. § 87(2)(b) said that these comments extended to § 87(2)(b) when PO Marachilian noticed her handbag and said, “Nice bag.”

After PO Marachilian had finished searching § 87(2)(b) and found no stolen property or other contraband, he asked, “What kind of record do you have?” § 87(2)(b) said that he was angry because he was still being detained even though PO Marachilian had not found any evidence of a crime during his search. He responded to PO Marachilian’s question about his criminal record by saying, “It really seems like you guys

are fishing for something. First it's 'you're too close to women,' then it's pick-pocketing, and now you're looking to see if I have a record..." PO Marachilian answered, "If I really wanted to harass you, I could book you right now and put you through the system, then let you go." PO Marachilian then took a mobile phone and walked up the stairwell leading to Canal Street. § 87(2)(b) thought that he was trying to get reception for the phone to call about his criminal record, because he left only when he was trying to use the phone, and quickly returned to the subway station.

§ 87(2)(b) said that Sgt. Ricci, who had detained § 87(2)(b) then approached and questioned him in a manner similar to PO Marachilian. After he questioned § 87(2)(b) Sgt. Ricci stood by until PO Marachilian returned. § 87(2)(b) assumed that Sgt. Ricci and PO Marachilian were waiting for the results of § 87(2)(b)'s criminal background check before they removed the handcuffs, since § 87(2)(b) had already been released. § 87(2)(b) continued to verbally protest while PO Marachilian waited outside for the results of the criminal record check, complaining that he was in an embarrassing position and that he was on display for the commuters who exited the 6 train every few minutes as the interaction continued. § 87(2)(b) asked Sgt. Ricci to loosen his handcuffs while they waited, but he refused.

When PO Marachilian returned to the subway station, § 87(2)(b) told him that he believed he and his wife were racially profiled, but PO Marachilian responded, "No, you're not being profiled." He explained that he thought that § 87(2)(b) and § 87(2)(b) were a pick-pocketing team, because they had exhibited behavior indicative of criminal activity. § 87(2)(b) did not elaborate on what PO Marachilian told him to the interviewing investigator.

§ 87(2)(b) said that his criminal background check came back with negative results, and he was released. He showed the marks that the handcuffs had made on his wrists to PO Marachilian, who apologized, and then asked PO Marachilian and Sgt. Ricci for their names and badge numbers. He asked each officer directly, and PO Marachilian wrote his name and shield number on a piece of paper and gave it to § 87(2)(b). Sgt. Ricci, however, told § 87(2)(b) "If you have [PO Marachilian's] info, then you can get to us." Sgt. Ricci did not tell § 87(2)(b) his name or badge number.

§ 87(2)(b) did not pursue medical treatment for the alleged injuries to his wrists.

Results of Investigation

Civilian Statements

§ 87(2)(b)

§ 87(2)(b) § 87(2)(b) is a § 87(2)(b)-year-old black female § 87(2)(b). She is 5'9" tall and weighs 125 pounds. On October 3, 2007, the undersigned investigator and Inv. Rachel Amo obtained the following statement from § 87(2)(b) over the telephone. § 87(2)(g)

§ 87(2)(b) stated that she did not notice PO Marachilian on the 6 train traveling from 42nd Street to Canal Street, but remembered bumping into several people as she stood on the train. She was holding her handbag protectively throughout the trip because she was afraid of being robbed.

After exiting the train and being stopped by PO Marachilian and Sgt. Ricci, Sgt. Ricci handcuffed § 87(2)(b) as she verbally protested by shouting, "I don't understand. Why am I in cuffs? I didn't do anything wrong." § 87(2)(b) said that she was definitely yelling at Sgt. Ricci because she was "upset," and later described herself as "pissed off."

As Sgt. Ricci began to question § 87(2)(b) and PO Marachilian began to question § 87(2)(b) § 87(2)(b) described her husband as "livid," which she could tell by his tone of voice as he spoke to PO Marachilian. She said that his voice was not particularly loud, but his tone was "stern." § 87(2)(b) said that she also "yelled at" Sgt. Ricci as described above, but that Sgt. Ricci did not react to her behavior and instead asked

her a series of questions regarding who she was, why she was here, where she was going, and where she was coming from. § 87(2)(b) said that Sgt. Ricci was repeating the same questions but phrasing them differently, and she thought that he was trying to see if her answers remained consistent.

As he questioned § 87(2)(b) Sgt. Ricci patted the outside of her clothing, especially around her pants pockets. Sgt. Ricci placed his hands inside of her jacket pockets, where he found an unspecified amount of cash and two tampons, which he returned to the jacket pocket. He then took § 87(2)(b)'s handbag, which she described as a short-strapped shoulder bag with a zipper closure, and started to search through it. § 87(2)(b) said that she challenged Sgt. Ricci again when he took her bag, saying "Whatever you're looking for, find it. Go ahead; dump my purse on the ground. I don't have anything to hide from you guys." Sgt. Ricci did not respond, but continued to search through the handbag. When he found § 87(2)(b)'s identification inside a zippered pocket of the bag, he removed it and left the area to check § 87(2)(b)'s criminal record.

§ 87(2)(b) said that, after she was released, PO Marachilian and Sgt. Ricci explained that she and § 87(2)(b) were acting suspiciously while they were riding the 6 train, because they were not interacting with one another with the exception of eye contact, and were facing away from one another. Either PO Marachilian or Sgt. Ricci told § 87(2)(b) that this was not "considered normal behavior for a married couple." § 87(2)(b) said that she asked Sgt. Ricci and PO Marachilian, "What did I do? How can I make sure that this doesn't happen again?" She said that either PO Marachilian or Sgt. Ricci told her that she was observed "bumping into" the woman beside her multiple times, and that each time, she placed her hand on her own bag. One of the officers (§ 87(2)(b) could not recall which) told her that this made it appear as though she was dropping stolen objects into her bag. Sgt. Ricci told her that this observation was enough to justify her and her husband's detention and said that PO Marachilian told her, "We could take you in at any time if we wanted to." She acknowledged that the description fit her behavior while riding the 6 train, but said that she was trying to protect her bag from theft rather than placing anything inside of it.

While speaking over the speaker phone to both § 87(2)(b) and § 87(2)(b) who stated that they were in § 87(2)(b)'s office, the undersigned investigator explained the importance of the verification forms and advised § 87(2)(b) and § 87(2)(b) to sign the forms in front of a notary public and return them to the CCRB. The undersigned investigator called § 87(2)(b) on his mobile phone and work phone twice more through October 24, 2007 and left voicemail messages advising him that any possible charges of misconduct against the subject officers would be dropped if he and § 87(2)(b) did not return the verifications. The verification forms were never returned.

Officer Statements

PO Hariton Marachilian

PO Hariton Marachilian, currently assigned to Transit District 4, is a white male officer who is 5'9" tall and weighs 165 lbs. On August 20, 2007, he was assigned to the Transit Manhattan Task Force Train Patrol and worked with Sgt. Ricci, patrolling the Lexington Avenue subway line from 6:00 am until 2:35 pm. PO Marachilian and Sgt. Ricci were dressed in plain clothes. He made the following memo book entry about the incident:

0830: @ 42 G/C
0900: Uf250 x 2 @ Canal St s/b 6 plat. § 87(2)(b)
5'9" 165 and § 87(2)(b) f/b 5'7" 130. Obsrv m + f
crowding a f/w on s/b 6. Obsrved f/b's hand in f/w's purse
m/b attpmtg to conceal actions of f/b. M/b and f/b acting as if they
did not know each other. Upon stop m/b + f/b gave different stories
as to where they were staying.

The undersigned investigator requested the UF-250 mentioned in the memo book, but the request was returned with negative results. PO Marachilian was interviewed at the CCRB on November 27, 2007, and gave the following statement.

At approximately 8:30 am on August 20, 2007, PO Marachilian was standing with Sgt. Ricci on the south bound platform of the Lexington Avenue line at Grand Central Terminal, on 42nd Street in Manhattan. He stated that he noticed an individual identified by the CCRB as § 87(2)(b) because he was standing alone, and looking “up the stairs” rather than toward oncoming trains. § 87(2)(b) was standing in the middle of the platform (southbound trains including the 4, 5, and 6 lines stop across the platform from one another at Grand Central Terminal) rather than on a particular side, and he did not appear to be looking for oncoming trains; instead, § 87(2)(b) was “looking at women” walking down the stairs inside of the station toward the platform. He continued to look up the stairs and at women in the station until he was approached by a female, identified as § 87(2)(b) who “said a quick word” to him. Once § 87(2)(b) was joined by § 87(2)(b) both of them boarded the next train to arrive, which was pulling into the station as she spoke to § 87(2)(b). PO Marachilian and Sgt. Ricci also boarded the train, to observe § 87(2)(b) and § 87(2)(b)s activity.

When the train doors closed, PO Marachilian was standing with his back to the southern most of the three doors to the car. He was standing directly in front of § 87(2)(b) who was facing him, and in sight of § 87(2)(b) who was to § 87(2)(b)s back and facing in the opposite direction, into the train car. PO Marachilian said that the car was filled to near capacity and that there was very little room. He saw § 87(2)(b) place her hand into the open shoulder bag of a white female standing nearby, and as he watched, § 87(2)(b) moved to the side and blocked his view of § 87(2)(b). PO Marachilian said that he judged § 87(2)(b)s contact with the bag to be deliberate reaching, but said that it was possible that it was an accidental bump. The white female yanked her bag away and exited at the next stop. He said that § 87(2)(b) and § 87(2)(b) acted as if they did not know one another throughout the ride.

When the train reached the Canal Street station, § 87(2)(b) and § 87(2)(b) exited the train, and PO Marachilian and Sgt. Ricci followed. PO Marachilian then verbally directed § 87(2)(b) to stop as he walked, by saying, “Police officer, please step to the side so I can talk to you for a second,” while Sgt. Ricci stopped § 87(2)(b). After § 87(2)(b) § 87(2)(b) PO Marachilian, and Sgt. Ricci had moved through the turnstile gates, PO Marachilian instructed § 87(2)(b) to stand with his hands behind his back, after which PO Marachilian handcuffed him and § 87(2)(b) and moved them six to eight feet apart from one another. § 87(2)(b) verbally protested the stop by behaving in a “boisterous” manner, “shouting, yelling, and cursing at us, so I placed them both in handcuffs.” PO Marachilian said that § 87(2)(b) complied with his commands, but that he verbally protested and responded to his initial contact by asking, “What the fuck for?”

When both § 87(2)(b) and § 87(2)(b) were secure, PO Marachilian questioned them separately. He said that both § 87(2)(b) and § 87(2)(b) claimed that they were tourists (he could not recall their stated residence, but believed they came from South Carolina) but that each had a different story about where they were staying. § 87(2)(b) said that they had been in the city for a funeral, and that they were staying with a friend in Harlem, but § 87(2)(b) said that they were staying at a hotel in Queens and were in the city to shop. They both produced identification from their state of residence when asked by PO Marachilian and Sgt. Ricci. PO Marachilian thought that they probably both produced state driver’s licenses but did not recall what kind of identification was used. He explained the reason for the stop to them and said that both § 87(2)(b) and § 87(2)(b) appeared to calm down once they had heard the explanation, and he released the handcuffs of each at this point because he no longer feared that they were at risk of fleeing. PO Marachilian said that, while their stories were suspicious, he did not have enough evidence to arrest either § 87(2)(b) or § 87(2)(b) so he called the command on a department issued mobile phone and had the identifications checked for warrants. When both names returned with no warrants for their arrest, PO Marachilian and Sgt. Ricci released § 87(2)(b) and § 87(2)(b).

PO Marachilian denied having frisked or searched either individual, and also denied having searched § 87(2)(b)s handbag. He stated that he personally filed UF 250’s for each individual in lieu of arrest, and that he never threatened to arrest either § 87(2)(b) or § 87(2)(b) but instead explained his rationale for stopping them. He stated that both he and Sgt. Ricci provided their names and shield numbers when asked by § 87(2)(b).

Sgt. Alfred Ricci

Sgt. Alfred Ricci from the Transit Bureau Manhattan Task Force is a twelve year veteran of the NYPD. On August 20, 2007, he worked from 6:00 am through 2:57 pm as the Anti Crime Supervisor. He was with PO Hariton Marachilian at the time of the incident and was dressed in plainclothes, patrolling the Lexington Avenue 4, 5, and 6 lines for pick-pocketing activity. In his memo book, Sgt. Ricci noted that at 9:00 am, § 87(2)(b) and § 87(2)(b) were stopped at Canal Street, and that a detailed description could be found in PO Marachilian's memo book. He was interviewed at the CCRB on January 14, 2008 in regard to this incident and gave the following statement, § 87(2)(g)

At approximately 8:45 am, Sgt. Ricci and PO Marachilian boarded a crowded downtown 6 train at Grand Central Station. Sgt. Ricci said that they boarded the train because PO Marachilian had communicated to him that there were suspicious individuals also boarding the train. He had not noted any suspicious activity but acted on information received from PO Marachilian, because he had not noticed any suspicious activity from where he stood.

When the train reached the Canal Street station, § 87(2)(b) and § 87(2)(b) exited the train, and Sgt. Ricci identified himself as an officer and asked the couple to step aside. § 87(2)(b) was immediately "loud and belligerent," and flailed his arms and struggled as PO Marachilian placed him in handcuffs. Sgt. Ricci said that he thought that PO Marachilian handcuffed both § 87(2)(b) and § 87(2)(b) and added that they were handcuffed because of § 87(2)(b)'s initial reaction to the stop. § 87(2)(b) reached into his own pocket to produce identification, or Sgt. Ricci reached inside of his pocket to retrieve it; he did not remember which was the case but stated that § 87(2)(b) was frisked but not searched. He described the frisk as "checking where their hands go, and the waistband. You've got to check the waistband."

Sgt. Ricci noted that neither § 87(2)(b) nor § 87(2)(b) was free to leave at this point because he suspected them of attempted larceny and jostling. He and PO Marachilian took turns questioning § 87(2)(b) and § 87(2)(b). Sgt. Ricci first questioned § 87(2)(b) whom he described as "overly cooperative." § 87(2)(b) told Sgt. Ricci that she and her husband were staying with friends in Harlem and were visiting the city for a few days. Sgt. Ricci said that he noticed § 87(2)(b)'s accent and determined that she was not from the area. When questioned on the handbag search allegation, he stated that he thought that § 87(2)(b) had a plastic shopping bag inside of her purse, and that her identification was inside of the plastic bag. Sgt. Ricci stated that § 87(2)(b) gave him verbal permission to retrieve the ID from the plastic bag by telling him to get it out of her purse.

Sgt. Ricci then questioned § 87(2)(b) who was situated approximately ten feet away and had been secured and questioned in the interim by PO Marachilian. § 87(2)(b) told Sgt. Ricci that he and his wife were staying in a hotel. The discrepancy in their stories made Sgt. Ricci suspicious, and he felt that the evasion was indicative of criminal activity. Moreover, he believed that he had enough evidence to arrest both § 87(2)(b) and § 87(2)(b) for jostling, which he explained is the first degree in a pick-pocketing crime. He explained that bumping into another individual to distract them constitutes jostling, or level one. Reaching a hand into someone's pocket or bag is attempted grand larceny, or level two, and pulling another person's possession out of the pocket is pick-pocketing or level three.

PO Marachilian witnessed § 87(2)(b) jostling the female on the train. However, there was no complainant, since the unidentified female had exited the train. Sgt. Ricci exited the station to call in a "Triple I check" or interstate warrant search on the couple, which revealed that § 87(2)(b) had no criminal record but that § 87(2)(b) had stolen a vehicle in the past. There were no current warrants or criminal charges for either § 87(2)(b) or § 87(2)(b). Sgt. Ricci said that he did not have enough evidence to make a strong case (although he had probable cause to arrest both § 87(2)(b) and § 87(2)(b) because the female on the train had walked away, so he used his discretion and chose to release them without an arrest or summons, and then put out notice to the Task Force to be on alert to the possibility of § 87(2)(b) and § 87(2)(b)'s possible operations as a pick-pocket team.

Sgt. Ricci denied using any profanity and denied that PO Marachilian used any profanity. He also denied refusing to provide his name and shield number to § 87(2)(b). Sgt. Ricci stated that § 87(2)(b) asked for their names but not their shield numbers, and that he instructed PO Marachilian to write both their names on a piece of paper and give it to § 87(2)(b). He added that § 87(2)(b) shouted threats to sue throughout their interaction, even after he and PO Marachilian explained the reasons for the stop.

Complainant CCRB and Criminal Histories

§ 87(2)(b) and § 87(2)(b) have never made any complaints against officers of the NYPD previous to this. [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Police Officer CCRB Histories

Neither PO Marachilian nor Sgt. Ricci has any history of substantiated complaints.

Conclusions and Recommendations

Pleading of Allegations and Officer Identification

§ 87(2)(b) and § 87(2)(b) each gave physical descriptions of PO Marachilian and Sgt. Ricci and differentiated between the two when making their CCRB statements. § 87(2)(b) obtained PO Marachilian's shield number during the incident and was able to refer to him independently of Sgt. Ricci. Both § 87(2)(b) and § 87(2)(b) stated that PO Marachilian made the initial stop, and that Sgt. Ricci questioned, frisked and searched § 87(2)(b) while PO Marachilian questioned, frisked and searched § 87(2)(b). § 87(2)(b) stated that PO Marachilian told him to "Shut the fuck up" as he detained him, so the discourtesy allegation is pleaded against PO Marachilian. The search of § 87(2)(b)'s handbag was attributed to Sgt. Ricci, and is therefore pleaded against him. Both § 87(2)(b) and § 87(2)(b) stated that PO Marachilian threatened to arrest them, so the threat of arrest is pleaded against him. Since § 87(2)(b) was able to provide PO Marachilian's shield number but stated that Sgt. Ricci made the statement "If you have his information, you can get to me," the refusal to provide name and shield number is pleaded against Sgt. Ricci. Sgt. Ricci and PO Marachilian generally agreed with § 87(2)(b)'s and § 87(2)(b)'s attributions in their statements.

Undisputed Facts

It is undisputed on all accounts that PO Hariton Marachilian, Sgt. Alfred Ricci, § 87(2)(b) and § 87(2)(b) rode in the same car of a south-bound number 6 train from Grand central Station to Canal Street in Manhattan at some point on the morning of August 20, 2007. All parties agree that the train was crowded and that § 87(2)(b) bumped into other civilian passengers. As § 87(2)(b) and § 87(2)(b) exited the train at the Canal Street station, PO Marachilian and Sgt. Ricci stopped and detained them, then released them without arrest or summons.

Disputed Facts

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Assessment of Evidence

The investigation determined that on the morning of August 20, 2007, § 87(2)(b) and § 87(2)(b) rode a south-bound 6 subway train from Grand Central Station to Canal Street in Manhattan, on which PO Marachilian and Sgt. Ricci were also passengers. On all accounts, the train was very crowded, and at some point § 87(2)(b) bumped into a female passenger and placed her hand near, on, or inside of her handbag.

§ 87(2)(g)

§ 87(2)(g)

It is undisputed that, upon their exit from the train at Canal Street, § 87(2)(b) and § 87(2)(b) were stopped by Sgt. Ricci and PO Marachilian. § 87(2)(b) stated that PO Marachilian told him to “Shut the fuck up” when he questioned the stop, § 87(2)(g)

PO Marachilian handcuffed both individuals and § 87(2)(b) reacted in an agitated, irate manner. Although PO Marachilian denied frisking § 87(2)(b) or § 87(2)(b) Sgt. Ricci described a frisk of both individuals and stated that he frisked § 87(2)(b) while PO Marachilian frisked § 87(2)(b) and § 87(2)(b) described the same interaction and added that they were searched by PO Marachilian and Sgt. Ricci, respectively, while § 87(2)(b)'s handbag was also searched by Sgt. Ricci. Sgt. Ricci confirmed that he retrieved § 87(2)(b)'s identification from inside of her handbag with her consent, but denied searching her person, as PO Marachilian denied searching § 87(2)(b) § 87(2)(g)

While PO Marachilian and Sgt. Ricci frisked § 87(2)(b) and § 87(2)(b) and Sgt. Ricci searched § 87(2)(b)'s handbag, the officers questioned § 87(2)(b) and § 87(2)(b) in reference to their behavior while riding on the train and their lodgings and reasons for visiting New York City. § 87(2)(g)

Sgt. Ricci and PO Marachilian noted that § 87(2)(b) and § 87(2)(b) gave inconsistent answers to their questions, and Sgt. Ricci noted that these responses raised his level of suspicion. § 87(2)(b) and § 87(2)(b) both noted that the questions were repetitive and believed that they were designed to test their consistency.

After the stop, questioning, and frisks of § 87(2)(b) and § 87(2)(b) either Sgt. Ricci or PO Marachilian left the station to conduct criminal background checks on the two civilians. According to Sgt. Ricci, PO Marachilian, and § 87(2)(b) was continually verbally resistant throughout his encounter with the police. On all accounts, he stated that he believed that he had been racially profiled when Sgt. Ricci took his identification to check his criminal background. § 87(2)(b) claimed that PO Marachilian responded by telling him, “If I really wanted to harass you, I would arrest you, put you through Central Booking, and let you tell the judge.” PO Marachilian did not dispute this, but instead clarified that he had been explaining the circumstances to § 87(2)(b) Sgt. Ricci also affirmed in his statement that they had enough evidence to arrest § 87(2)(b) and § 87(2)(b) for jostling, a misdemeanor defined by PL 165.25 as intentionally and unnecessarily placing one’s hand in the proximity of a person’s pocket or handbag. Sgt. Ricci went on to state that he exercised discretion in releasing § 87(2)(b) and § 87(2)(b) § 87(2)(g)

After being told that he was free to go, § 87(2)(b) asked both PO Marachilian and Sgt. Ricci for their names and shield numbers. It is undisputed that PO Marachilian provided this information for himself, because § 87(2)(b) used it when filing his complaint. However, § 87(2)(b) stated that Sgt. Ricci responded by saying “If you have his information, you can get to me.” Sgt. Ricci denied that this was the case, noting that it would not make sense for him to respond as such and stating that he instructed PO Marachilian to provide Sgt. Ricci’s pedigree information as well as his own on the piece of paper.

Allegation A: PO Hariton Marachilian stopped § 87(2)(b)

Allegation B: Sgt. Alfred Ricci stopped § 87(2)(b)

Allegation C: PO Hariton Marachilian spoke obscenely and / or rudely to § 87(2)(b)

Allegation D: PO Hariton Marachilian frisked § 87(2)(b)

Allegation E: Sgt. Alfred Ricci frisked § 87(2)(b)

Allegation F: PO Hariton Marachilian searched § 87(2)(b)

Allegation G: Sgt. Alfred Ricci searched § 87(2)(b)

Allegation H: Sgt. Alfred Ricci searched § 87(2)(b)'s handbag.

Allegation I: PO Hariton Marachilian threatened to arrest § 87(2)(b) and § 87(2)(b)

Allegation J: Sgt. Alfred Ricci refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(g)
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Investigator:
Kathryn Duffy

Date: October 10, 2008

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: